



OFFICE OF PUBLIC INSTRUCTION

PO BOX 202501
HELENA MT 59620-2501
www.opi.state.mt.us
(406) 444-3095
(888) 231-9393
(406) 444-0169 (TTY)

Linda McCulloch
Superintendent

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Updated 2004 Guidance for Release of Confidential Free and Reduced-Price Information to Education Officials

This guidance provides information regarding the disclosure of free and reduced-price eligibility information to education officials.

Under Section 108 of Public Law 103-448, individuals' rights to privacy are recognized by limiting disclosure of free and reduced-price information to persons who are *directly* connected to the administration or enforcement of certain programs. Those persons directly connected to program administration or enforcement include federal, state and local program operators responsible for program administration or program compliance and their contractors.

Section 9(b)(2)(C)(iv) of Public Law 103-448 specifies that certain programs may receive children's eligibility status only, without parental consent. Determining agencies may disclose, without consent, participant's names and eligibility status (whether they are eligible for free meals, or free milk, or reduced-price meals) to persons directly connected with the administration or enforcement of state education programs provided the programs are administered by a state agency or local education agency. A child's name, grade, and free and reduced price eligibility information may be released to authorized school officials for purposes required by the No Child Left Behind Act, including reporting disaggregated enrollment and attendance information.

Use the following steps to ensure that this confidential information is disclosed appropriately.

1. Determine that the eligibility information is to be used for a program that is authorized to receive individual eligibility status information. Programs include the No Child Left Behind Act; the Iowa Test of Basic Skills and Iowa Tests of Educational Development; Montana Criterion-Referenced Test; the National Assessment of Educational Progress, and assessments under Reading First or Reading Excellence.
2. Identify the person(s) who are directly connected with the administration or enforcement of the authorized program for your school. Test coordinators for the Iowa Test of Basic Skills and Iowa Tests of Educational Development; Montana Criterion-Referenced Test; the National Assessment of Educational Progress; and assessments under Reading First or Reading Excellence have a need to know children's eligibility status. School administrators responsible for No Child Left Behind reporting requirements and/or enrollment and attendance reporting also need to know this information.

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3. Notify the person(s) receiving the information, in writing, that eligibility information may only be used for the purpose for which the disclosure was made, that further use or disclosure to other parties is prohibited and that a violation of this provision may result in a fine of not more than \$1,000 or imprisonment of not more than one year, or both.
4. Disclose only the names and eligibility status of the children. Other information, including social security numbers, may not be disclosed without written consent from the parents/guardians. Providing aggregate information that does not identify individuals continues to be permitted without consent.
5. Ensure that there is no overt identification of children's eligibility status. Eligibility information must never be publicized or used in such a way that others may recognize eligibility categories of individual students. Overt identification will be prevented through one of the following coding procedures:
 - The test coordinator and/or free and reduced-price application determining official will enter free and reduced-price eligibility information in a bar code on the test prior to administration of the test; or
 - The test coordinator and/or free and reduced-price application determining official will place free and reduced-price eligibility information on the test after the test is conducted.

For purposes of disaggregating assessment data and for identifying students as “economically disadvantaged” in implementing supplemental educational services and the priority for public school choice, school officials may deem all students in USDA Provision 2 and 3 schools as “economically disadvantaged.” In addition, when determining Title I eligibility and allocations for a Provision 2 or 3 school, local education agency officials may assume that the school has the same percentage of students eligible for free and reduced price meals as it had in the most recent year for which the school collected that information.

A school district that does not participate in the U.S. Department of Agriculture Child Nutrition Programs should use an alternative means to determine the economic status of children.

For questions, please contact School Nutrition Programs at (406) 444-2501.